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ZaaZoom Solutions, LLC; ZaZa Pay, LLC;
Automated Electronic Checking, Inc.;;
MultiECom, LLC and Online Resource Center, LLC;

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**AMBER KRISTI MARSH and STACIE
EVANS**, individually and on behalf of a
class of similarly situated persons,

Plaintiffs,

v.

ZAAZOOM SOLUTIONS, LLC, a
Delaware Limited Liability Company, et al.

Defendants.

Case No.: 4:11-cv-05226 YGR

San Francisco Sup. Ct.
Case No.: CGC-11-510815

DEFENDANTS ZAAZOOM
SOLUTIONS, LLC; ZAZA PAY, LLC;
AUTOMATED ELECTRONIC
CHECKING, INC.; MULTIECOM, LLC
AND ONLINE RESOURCE CENTER,
LLC'S ANSWER TO PLAINTIFFS'
THIRD AMENDED COMPLAINT AND
DEMAND FOR JURY TRIAL

[Complaint Filed May 9, 2011]

Defendants ZAAZOOM SOLUTIONS, LLC; ZAZA PAY, LLC; AUTOMATED
ELECTRONIC CHECKING, INC; MULTIECOM, LLC AND ONLINE RESOURCE
CENTER, LLC (the "ZAAZOOM Defendants") for themselves and for no other
defendants, hereby answer PLAINTIFFS AMBER KRISTI MARSH and STACIE
EVANS, individually and on behalf of a class of similarly situated persons Third
Amended Complaint ("TAC") in the above-captioned action ("Action") as follows:

INTRODUCTION

1
2 1. ZAAZOOM Defendants deny each and every allegation contained in
3 paragraph 1 of the TAC ("TAC"). ZAAZOOM Defendants affirmatively state that
4 Plaintiffs and their counsel of record have actual knowledge that the allegations
5 contained in paragraph 1 of the TAC are false with respect to these ZAAZOOM
6 Defendants, and that there are no facts of which the Plaintiffs have present knowledge
7 that would support any claim against these ZAAZOOM Defendants after the enactment
8 of 15 USCA §8402.
9

10 2. With respect to the allegations contained in paragraph 2 of the TAC, these
11 ZAAZOOM Defendants admit that Automated Electronic Checking, Inc. served as the
12 processor for the ZAAZOOM Defendants with respect to the processing of payments
13 authorized and made by Stacie Evans. These ZAAZOOM Defendants lack sufficient
14 information on which to admit or deny o the remaining allegations contained in
15 paragraph 2 of the TAC and on such basis deny the same.
16

17 3. ZAAZOOM Defendants do not own or operate payday loan websites.
18 ZAAZOOM Defendants lack sufficient information on which to admit or deny the
19 allegations contained in paragraph 3 of the TAC and on such basis deny the same.
20

21 4. ZAAZOOM Defendants do not own or operate payday loan websites.
22 ZAAZOOM Defendants lack sufficient information on which to admit or deny the
23 allegations contained in paragraph 4 of the TAC and on such basis deny the same.
24

25 5. ZAAZOOM Defendants deny the allegations contained in paragraph 5 of
26 the TAC. ZAAZOOM Defendants state affirmatively that the Plaintiff's orders were
27 confirmed by electronic mail twice before billing, and that Plaintiff Marsh provided here
28 banking information directly to ZAAZOOM Defendants when placing her order.

1 6. ZAAZOOM Defendants deny the allegations contained in paragraph 6 of
2 the TAC.

3
4 7. ZAAZOOM Defendants deny the allegations contained in paragraph 7 of
5 the TAC.

6
7 8. With respect to the allegations contained in paragraph 8 of the TAC,
8 ZAAZOOM Defendants state that Plaintiff Marsh provided her personal banking
9 information directly to the ZAAZOOM Defendants at the time she placed her order, and
10 that both Plaintiffs' orders were confirmed by electronic mail twice before billing.
11 ZAAZOOM Defendants deny each and every remaining allegation contained in
12 paragraph 8 of the TAC.

13
14 9. ZAAZOOM Defendants deny the allegations contained in paragraph 9 of
15 the TAC. ZAAZOOM Defendants affirmatively state that Plaintiff Evans contacted
16 ZAAZOOM Defendants customer service department and admitted placing her order,
17 and thereafter attempted to repurchase the service from ZAAZOOM Defendants.

18
19 10. ZAAZOOM Defendants admit that it deposited a total of \$118.94 into its
20 depository account based on purchases made by Stacie Evans between October 22, 2010
21 and December 1, 2010. ZAAZOOM Defendants state affirmatively that Stacie Evans
22 placed multiple orders for online coupon services using different bank account numbers.
23 ZAAZOOM Defendants deny each and every remaining allegation contained in
24 paragraph 10 of the TAC. ZAAZOOM Defendants further deny that any payment
25 transactions were not authorized by the Plaintiffs.

26
27 11. ZAAZOOM Defendants admit that authorized billing transactions were
28 processed on the account of Stacie Evans between October 22, 2010 and December 1,

1 2011 totaling \$118.94. ZAAZOOM Defendants admit that it billed the account of
2 Amber Marsh in the amount of \$49.98 on or about January 17, 2011. ZAAZOOM
3 Defendants lack information sufficient to admit or deny the allegations contained in
4 paragraph 11 of the TAC and on such basis deny the same.

5
6 12. ZAAZOOM Defendants admit receiving \$118.94 on the account of Stacie
7 Evans. ZAAZOOM Defendants admit receiving \$49.98 on the account of Amber
8 Marsh. ZAAZOOM Defendants lack information on which to admit or deny the
9 remaining allegations contained in paragraph 12 of the TAC and on such basis deny the
10 same.

11
12 13. ZAAZOOM Defendants deny each and every allegation contained in
13 paragraph 13 of the TAC.

14
15 14. ZAAZOOM Defendants deny each and every allegation contained in
16 paragraph 14 of the TAC.

17
18 15. ZAAZOOM Defendants deny each and every allegation contained in
19 paragraph 15 of the TAC. ZAAZOOM Defendants state affirmatively that on and after
20 December 29, 2010, all offers made by these ZAAZOOM Defendants to consumers via
21 any Internet website were compliant with The Restore Online Shoppers Confidence Act
22 ("ROSCA") 15 USC §8401, et seq. ROSCA requires a consumer to personally provide
23 banking information directly to the merchant when processing an online order for
24 products or services. Plaintiff Marsh knowingly and intentionally provided her banking
25 information directly to the ZAAZOOM Defendants on January 17, 2011.

JURISDICTION AND VENUE

16. ZAAZOOM Defendants deny that the Court has subject matter jurisdiction over any claims arising on or after December 29, 2010.

17. ZAAZOOM Defendants admit that the Court has personal jurisdiction over the ZAAZOOM Defendants. ZAAZOOM Defendants deny any misconduct as alleged by the Plaintiff and/or resulting damages.

18. ZAAZOOM Defendants admit that venue is proper.

PARTIES

19. ZAAZOOM Defendants admit the allegations contained in paragraph 19 of the TAC.

20. ZAAZOOM Defendants admit the allegations contained in paragraph 20 of the TAC.

21. ZAAZOOM Defendants admit that ZaZaPay, LLC is a wholly owned subsidiary of ZaaZoom Solutions, LLC.

22. ZAAZOOM Defendants admit that they use various trade names in connection with online marketing campaigns and offers.

23. ZAAZOOM Defendants admit the allegations contained in paragraph 23 of the TAC.

1 24. ZAAZOOM Defendants admit the allegations contained in paragraph 24
2 of the TAC.

3
4 25. ZAAZOOM Defendants admit the allegations contained in paragraph 25
5 of the TAC.

6
7 26. ZAAZOOM Defendants admit the allegations contained in paragraph 26
8 of the TAC.

9
10 27. ZAAZOOM Defendants admit the allegations contained in paragraph 27
11 of the TAC.

12
13 28. ZAAZOOM Defendants admit the allegations contained in paragraph 28
14 of the TAC.

15
16 29. ZAAZOOM Defendants lack knowledge and information on which to
17 admit or deny the allegations contained in paragraph 29 of the TAC and on such basis
18 deny the same.

19
20 30. ZAAZOOM Defendants lack knowledge and information on which to
21 admit or deny the allegations contained in paragraph 30 of the TAC and on such basis
22 deny the same.

23
24 31. ZAAZOOM Defendants lack knowledge and information on which to
25 admit or deny the allegations contained in paragraph 31 of the TAC and on such basis
26 deny the same.

1 32. ZAAZOOM Defendants lack knowledge and information on which to
2 admit or deny the allegations contained in paragraph 32 of the TAC and on such basis
3 deny the same.

4
5 33. ZAAZOOM Defendants lack knowledge and information on which to
6 admit or deny the allegations contained in paragraph 33 of the TAC and on such basis
7 deny the same.

8
9 34. ZAAZOOM Defendants admit the allegations contained in paragraph 34
10 of the TAC, but deny any present knowledge of the whereabouts of said Plaintiff.

11
12 35. ZAAZOOM Defendants admit the allegations contained in paragraph 35
13 of the TAC, but deny any present knowledge of the whereabouts of said Plaintiff.

14
15 36. With respect to the statements and allegations contained in paragraph 36
16 of the TAC, ZAAZOOM Defendants deny any misconduct as alleged by the Plaintiff
17 and/or resulting damages.

18
19 37. With respect to the statements and allegations contained in paragraph 37
20 of the TAC, ZAAZOOM Defendants deny each and every allegation contained therein
21 and further deny any misconduct as alleged by the Plaintiff and/or resulting damages.

22
23 **FACTUAL ALLEGATIONS**

24
25 38. The allegations contained in paragraph 38 of the TAC are hypothetical
26 facts or legal conclusions which are incapable of being admitted or denied. To the extent
27 that any allegation contained in the TAC is intended to allege or imply that these
28 ZAAZOOM Defendants created or processed remotely created checks, or that any form

1 of billing employed by these ZAAZOOM Defendants was without the knowledge and
2 consent of its customers, ZAAZOOM Defendants deny each and every such implication
3 or allegation.

4
5 39. The allegations contained in paragraph 39 of the TAC are hypothetical
6 facts, arguments of counsel or legal conclusions that are incapable of being admitted or
7 denied.

8
9 40. The allegations contained in paragraph 40 of the TAC are hypothetical
10 facts or legal conclusions which are incapable of being admitted or denied.

11
12 41. The allegations contained in paragraph 41 of the TAC are hypothetical
13 facts, arguments of counsel or legal conclusions that are incapable of being admitted or
14 denied.

15
16 42. The allegations contained in paragraph 42 of the TAC are hypothetical
17 facts, arguments of counsel or legal conclusions that are incapable of being admitted or
18 denied.

19
20 43. The allegations contained in paragraph 43 of the TAC are hypothetical
21 facts, arguments of counsel or legal conclusions that are incapable of being admitted or
22 denied.

23
24 44. The allegations contained in paragraph 44 of the TAC are hypothetical
25 facts, arguments of counsel or legal conclusions that are incapable of being admitted or
26 denied.

1 45. The allegations contained in paragraph 45 of the TAC are hypothetical
2 facts, arguments of counsel or legal conclusions that are incapable of being admitted or
3 denied.

4
5 46. The allegations contained in paragraph 46 of the TAC are hypothetical
6 facts, arguments of counsel or legal conclusions that are incapable of being admitted or
7 denied.

8
9 47. The allegations contained in paragraph 47 of the TAC are hypothetical
10 facts, arguments of counsel or legal conclusions that are incapable of being admitted or
11 denied.

12
13 48. The allegations contained in paragraph 48 of the TAC are hypothetical
14 facts, arguments of counsel or legal conclusions that are incapable of being admitted or
15 denied.

16
17 49. The allegations contained in paragraph 49 of the TAC are hypothetical
18 facts, arguments of counsel or legal conclusions that are incapable of being admitted or
19 denied.

20
21 50. The allegations contained in paragraph 50 of the TAC are hypothetical
22 facts, arguments of counsel or legal conclusions that are incapable of being admitted or
23 denied.

24
25 51. The allegations contained in paragraph 51 of the TAC are hypothetical
26 facts, arguments of counsel or legal conclusions that are incapable of being admitted or
27 denied.

1 Check Return Rates

2
3 52. Upon information and belief, these ZAAZOOM Defendants admit the
4 allegations contained in paragraph 52 of the TAC.

5
6 53. With respect to the allegations contained in paragraph 53 of the TAC,
7 ZAAZOOM Defendants admit that remotely created checks can be returned by a bank
8 for a variety of reasons.

9
10 54. ZAAZOOM Defendants lack information on which to admit or deny the
11 allegations contained in paragraph 54 of the TAC and on such basis denies the same.
12 ZAAZOOM Defendants state affirmatively that there are no reports from the Federal
13 Reserve with respect to the average return rate of subprime consumers.

14
15 55. ZAAZOOM Defendants deny the allegations contained in paragraph 55 of
16 the TAC with respect to subprime consumers.

17
18 56. ZAAZOOM Defendants deny the allegations contained in paragraph 56 of
19 the TAC with respect to subprime consumers.

20
21 Allegations That The ZaaZoom Defendants Misappropriated Personal Information and
22 Drafted Fraudulent Remotely Created Checks Using that Information

23
24 57. ZAAZOOM Defendants admit the allegations contained in paragraph 57
25 of the TAC.

26
27 58. With respect to the allegations contained in paragraph 58 of the TAC,
28 ZAAZOOM Defendants admit that consumers can access coupons from its vendors

1 through links on the ZAAZOOM Defendant Websites. ZAAZOOM Defendants deny
2 each and remaining allegations contained in paragraph 58 of the TAC.

3
4 59. With respect to the allegations contained in paragraph 59 of the TAC,
5 ZAAZOOM Defendants deny each and every allegation regarding the ordering process
6 for online coupon services. ZAAZOOM Defendants admit that when a consumer
7 purchases online coupon services by an affirmative response to online advertising,
8 ZAAZOOM Defendants forward billing information to its processor.

9
10 60. ZAAZOOM Defendants deny each and every allegation contained in
11 paragraph 60 of the TAC. ZAAZOOM Defendants state affirmatively that all members
12 of the ZAAZOOM Defendants coupon offers and Websites are "opt-in" with double
13 email confirmations prior to billing. ZAAZOOM Defendants further states that
14 subsequent to December 31, 2010, all ZAAZOOM Defendants offers and Websites
15 were compliant in all respects with 15 U.S.C. §8402, and all orders were email
16 confirmed prior to billing. ZAAZOOM Defendants further assert that Plaintiff Marsh
17 and her counsel of record knew at all times material to the complaint, that Marsh had
18 knowingly and intentionally provided her banking information directly to Liberty
19 Discount Club on January 17, 2011 in response to an online offer that was ROSCA
20 compliant.

21
22 61. ZAAZOOM Defendants deny the allegations contained in paragraph 61 of
23 the TAC. ZAAZOOM Defendants states affirmatively that all members of the
24 Defendants coupon offers and Websites are "opt-in" only with double email
25 confirmations. ZAAZOOM Defendants further states that subsequent to December 31,
26 2010, all ZAAZOOM Defendants offers and Websites were compliant in all respects
27 with 15 U.S.C. §8402, and all orders were email confirmed prior to billing.

1 62. ZAAZOOM Defendants deny each and every allegation contained on
2 paragraph 62 of the TAC.

3
4 63. ZAAZOOM Defendants does not own or operate payday loan websites
5 and is without sufficient information on which to base a reasonable belief as to the truth
6 or falsity of the allegations contained in paragraph 63 of the TAC and on such basis
7 deny the same.

8
9 64. ZAAZOOM Defendants deny each and every allegation contained in
10 paragraph 64 of the TAC.

11
12 65. ZAAZOOM Defendants deny each and every allegation contained in
13 paragraph 65 of the TAC.

14
15 66. ZAAZOOM Defendants deny each and every allegation contained in
16 paragraph 66 of the TAC.

17
18 67. ZAAZOOM Defendants deny each and every allegation contained in
19 paragraph 67 of the TAC.

20
21 68. ZAAZOOM Defendants deny each and every allegation contained in
22 paragraph 68 of the TAC.

23
24 69. ZAAZOOM Defendants deny each and every allegation contained in
25 paragraph 69 of the TAC.

26
27 70. With respect to the allegations contained in paragraph 70 of the TAC,
28 ZAAZOOM Defendants admit that Plaintiffs processed their orders, and consented to or

1 personally provided their banking information on the order form. Their orders were
2 then confirmed by two separate emails prior to billing. If the Plaintiffs did not cancel
3 their order before billing, remotely created checks were used by ZAAZOOM
4 Defendants processors to pay for the services ordered by the Plaintiffs, and funds
5 representing confirmed orders were paid to the ZAAZOOM Defendants in the ordinary
6 course of business.

7
8 71. ZAAZOOM Defendants lack sufficient information on which to admit or
9 deny the specific allegations contained in paragraph 71 of the TAC, but admit that
10 remotely created checks used for payment of online coupon services were authenticated
11 as legitimate before final settlement.

12
13 72. ZAAZOOM Defendants deny each and every allegation contained in
14 paragraph 72 of the TAC.

15
16 73. ZAAZOOM Defendants deny the allegations contained in paragraph 73 of
17 the TAC. Defendants affirmatively state that the Plaintiffs are subprime consumers;
18 consumers with a history of fraudulent Internet transactions and insufficient funds
19 purchases. ZAAZOOM Defendants return rates are equal to or lower than the national
20 average for subprime consumers like Plaintiffs.

21 ZAAZOOM Defendants deny each and every allegation contained in paragraph 74 of
22 the TAC.

23
24 **The Involvement of DPS with the ZAAZOOM Defendants**

25
26 75. ZAAZOOM Defendants admit the allegations contained in paragraph 75
27 of the TAC.

1 76. ZAAZOOM Defendants admit the allegations contained in paragraph 76
2 of the TAC.

3
4 77. ZAAZOOM Defendants lack information on which to admit or deny the
5 allegations contained in paragraph 77 of the TAC and on such basis deny the same.

6
7 78. ZAAZOOM Defendants admit the allegations contained in paragraph 78
8 of the TAC.

9
10 79. ZAAZOOM Defendants admit that DPS served as a payment processor to
11 the ZAAZOOM Defendants. ZAAZOOM Defendants deny the remaining allegations
12 contained in paragraph 79 of the TAC.

13
14 80. ZAAZOOM Defendants admit that they did not maintain an account with
15 a depository bank where DPS deposited checks. ZAAZOOM Defendants deny the
16 remaining allegations contained in paragraph 80 of the TAC.

17
18 81. ZAAZOOM Defendants admit the allegations contained in paragraph 81
19 of the TAC. Defendants deny any misconduct as alleged by the Plaintiff and/or resulting
20 damages.

21
22 82. ZAAZOOM Defendants deny the allegations contained in paragraph 82 of
23 the TAC.

24
25 83. ZAAZOOM Defendants deny the allegations contained in paragraph 83 of
26 the TAC.

1 84. ZAAZOOM Defendants deny the allegations contained in paragraph 84 of
2 the TAC.

3
4 85. ZAAZOOM Defendants deny the allegations contained in paragraph 85 of
5 the TAC.

6
7 86. ZAAZOOM Defendants lack sufficient knowledge or information on
8 which to admit or deny the allegations contained in paragraph 86 of the TAC and on
9 such basis deny the same.

10
11 87. ZAAZOOM Defendants lack sufficient knowledge or information on
12 which to admit or deny the allegations contained in paragraph 87 of the TAC and on
13 such basis deny the same.

14
15 88. ZAAZOOM Defendants deny the allegations contained in paragraph 88 of
16 the TAC.

17
18 89. ZAAZOOM Defendants deny the allegations contained in paragraph 89 of
19 the TAC.

20
21 90. ZAAZOOM Defendants deny the allegations contained in paragraph 90 of
22 the TAC.

23
24 91. With respect to the allegations contained in paragraph 91 of the TAC,
25 ZAAZOOM Defendants admit that the BBB made public reports similar to those
26 alleged in paragraph 91, but deny that such BBB reports were true or accurate, or made
27 during any time period relevant to the TAC. ZAAZOOM Defendants deny each and
28 every remaining allegation contained in paragraph 91 of the TAC.

1 92. ZAAZOOM Defendants deny the allegations contained in paragraph 92 of
2 the TAC. ZAAZOOM Defendants affirmatively state that at the time of contracting with
3 DPS, these ZAAZOOM Defendants had not ever engaged in the business of marketing
4 online coupon services.

5
6 93. ZAAZOOM Defendants deny the allegations contained in paragraph 93 of
7 the TAC.

8
9 94. ZAAZOOM Defendants admit the allegations contained in paragraph 94
10 of the TAC.

11
12 95. ZAAZOOM Defendants deny the allegations contained in paragraph 95 of
13 the TAC.

14
15 96. ZAAZOOM Defendants deny the allegations contained in paragraph 96 of
16 the TAC.

17
18 97. ZAAZOOM Defendants deny the allegations contained in paragraph 97 of
19 the TAC.

20
21 98. With respect to the allegations contained in paragraph 98 of the TAC,
22 ZAAZOOM Defendants admit that DPS created and deposited remotely created checks
23 payable to ZAAZOOM Defendants. ZAAZOOM Defendants deny any misconduct as
24 alleged by the Plaintiff and/or resulting damages.

25
26 99. ZAAZOOM Defendants deny any misconduct as alleged by the Plaintiff
27 in paragraph 99 of the TAC and/or resulting damages.

The Involvement of Jack Henry with the ZAAZOOM Defendants

100. ZAAZOOM Defendants lack knowledge or information on which to admit or deny the allegations contained in paragraph 100 of the TAC and on such basis deny the same. ZAAZOOM Defendants state affirmatively that they have no contracts or agreements with Jack Henry and have never transacted business with Jack Henry.

101. ZAAZOOM Defendants lack knowledge or information on which to admit or deny the allegations contained in paragraph 101 of the TAC and on such basis deny the same.

102. ZAAZOOM Defendants deny the allegations contained in paragraph 102 of the TAC.

103. ZAAZOOM Defendants lack knowledge or information on which to admit or deny the allegations contained in paragraph 103 of the TAC and on such basis deny the same.

104. ZAAZOOM Defendants lack knowledge or information on which to admit or deny the allegations contained in paragraph 104 of the TAC and on such basis deny the same.

105. ZAAZOOM Defendants admit that they did not have a depository account at FNBOCT as alleged in paragraph 105 of the TAC.

106. ZAAZOOM Defendants lack knowledge or information on which to admit or deny the allegations contained in paragraph 106 of the TAC and on such basis deny the same.

1 107. ZAAZOOM Defendants deny the allegations contained in paragraph 107
2 of the TAC.

3
4 108. ZAAZOOM Defendants lack knowledge or information on which to admit
5 or deny the allegations contained in paragraph 108 of the TAC and on such basis deny
6 the same.

7
8 109. ZAAZOOM Defendants lack knowledge or information on which to admit
9 or deny the allegations contained in paragraph 109 of the TAC and on such basis deny
10 the same.

11
12 110. ZAAZOOM Defendants lack knowledge or information on which to admit
13 or deny the allegations contained in paragraph 110 of the TAC and on such basis deny
14 the same.

15
16 111. ZAAZOOM Defendants lack knowledge or information on which to admit
17 or deny the allegations contained in paragraph 111 of the TAC and on such basis deny
18 the same.

19
20 112. ZAAZOOM Defendants deny the allegations contained in paragraph 112
21 of the TAC.

22
23 113. ZAAZOOM Defendants lack knowledge or information on which to admit
24 or deny the allegations contained in paragraph 113 of the TAC and on such basis deny
25 the same.

26
27 114. ZAAZOOM Defendants deny the allegations contained in paragraph 114
28 of the TAC.

1 115. With respect to the allegations contained in paragraph 115 of the TAC,
2 ZAAZOOM Defendants admit that the BBB made public reports similar to those
3 alleged in paragraph 115, but deny that such BBB reports are true or accurate, or
4 published in a time period relevant to the TAC. ZAAZOOM Defendants deny each and
5 every remaining allegation contained in paragraph 115 of the TAC.
6

7 116. ZAAZOOM Defendants lack knowledge or information on which to admit
8 or deny the allegations contained in paragraph 113 of the TAC and on such basis deny
9 the same.
10

11 117. ZAAZOOM Defendants lack knowledge or information on which to admit
12 or deny the allegations contained in paragraph 117 of the TAC and on such basis deny
13 the same.
14

15 118. ZAAZOOM Defendants lack knowledge or information on which to admit
16 or deny the allegations contained in paragraph 118 of the TAC and on such basis deny
17 the same.
18

19 119. ZAAZOOM Defendants lack knowledge or information on which to admit
20 or deny the allegations contained in paragraph 119 of the TAC and on such basis deny
21 the same.
22

23 120. ZAAZOOM Defendants lack knowledge or information on which to admit
24 or deny the allegations contained in paragraph 120 of the TAC and on such basis deny
25 the same. Defendants deny any misconduct as alleged by the Plaintiff and/or resulting
26 damages.
27
28

1 121. ZAAZOOM Defendants lack knowledge or information on which to admit
2 or deny the allegations contained in paragraph 121 of the TAC and on such basis deny
3 the same. Defendants deny any misconduct as alleged by the Plaintiff and/or resulting
4 damages.

5
6 **The Involvement of AEC with Zaazoom Defendants**
7

8 122. ZAAZOOM Defendants admit the allegations contained in paragraph 122
9 of the TAC.

10
11 123. ZAAZOOM Defendants deny the allegation contained in paragraph 123 of
12 the TAC.

13
14 124. ZAAZOOM Defendants admit the allegations contained in paragraph 124
15 of the TAC.

16
17 125. ZAAZOOM Defendants admit that personal and billing information
18 provided by its customers at the time of sale were transmitted to AEC for payment
19 processing. ZAAZOOM Defendants deny any misconduct as alleged by the Plaintiff
20 and/or resulting damages.

21
22 126. ZAAZOOM Defendants lack knowledge or information on which to admit
23 or deny the allegations contained in paragraph 126 of the TAC and on such basis deny
24 the same. ZAAZOOM Defendants deny any misconduct as alleged by the Plaintiff
25 and/or resulting damages.

26
27 127. ZAAZOOM Defendants admit they did not maintain a depository account
28 at SunFirst Bank.

1
2 128. ZAAZOOM Defendants lack knowledge or information on which to admit
3 or deny the allegations contained in paragraph 127 of the TAC and on such basis deny
4 the same. Defendants deny any misconduct as alleged by the Plaintiff and/or resulting
5 damages.

6
7 129. ZAAZOOM Defendants admit the allegations contained in paragraph 129
8 of the TAC.

9
10 130. ZAAZOOM Defendants lack knowledge or information on which to admit
11 or deny the allegations contained in paragraph 130 of the TAC and on such basis deny
12 the same. ZAAZOOM Defendants deny any misconduct as alleged by the Plaintiff
13 and/or resulting damages.

14
15 131. ZAAZOOM Defendants lack knowledge or information on which to admit
16 or deny the allegations contained in paragraph 131 of the TAC and on such basis deny
17 the same. ZAAZOOM Defendants deny any misconduct as alleged by the Plaintiff
18 and/or resulting damages.

19
20 132. ZAAZOOM Defendants admit that more than 10,000 payments processed
21 by AEC on their behalf were uncollected and returned for nonsufficient funds.
22 ZAAZOOM Defendants deny the remaining allegations contained in paragraph 132 of
23 the TAC.

24
25 133. ZAAZOOM Defendants deny the allegations contained in paragraph 133
26 of the TAC.

1 134. ZAAZOOM Defendants deny the allegations contained in paragraph 134
2 of the TAC.

3
4 135. ZAAZOOM Defendants deny the allegations contained in paragraph 135
5 of the TAC.

6
7 136. ZAAZOOM Defendants deny the allegations contained in paragraph 136
8 of the TAC.

9
10 137. With respect to the allegations contained in paragraph 137 of the TAC,
11 ZAAZOOM Defendants admit that the BBB made public reports similar to those
12 alleged in paragraph 137, but deny that such BBB reports were true or accurate, or made
13 during any time period relevant to the TAC. ZAAZOOM Defendants deny each and
14 every remaining allegation contained in paragraph 137 of the TAC.

15
16 138. ZAAZOOM Defendants admit that they received payment from AEC for
17 billing transactions processed by AEC, less a processing fee. ZAAZOOM Defendants
18 deny the remaining allegations contained in paragraph 138 of the TAC.

19
20 139. ZAAZOOM Defendants deny the allegations contained in paragraph 139
21 of the TAC.

22
23 140. ZAAZOOM Defendants deny the allegations contained in paragraph 140
24 of the TAC.

25
26 141. ZAAZOOM Defendants deny the allegations contained in paragraph 141
27 of the TAC.

1 142. ZAAZOOM Defendants deny the allegations contained in paragraph 142
2 of the TAC and further deny any misconduct as alleged by the Plaintiff and/or resulting
3 damages.

4
5 143. ZAAZOOM Defendants deny the allegations contained in paragraph 143
6 of the TAC and further deny any misconduct as alleged by the Plaintiff and/or resulting
7 damages.

8
9 **The Involvement of FBOD with the Zaazoom Defendants**
10

11 144. ZAAZOOM Defendants admit the allegations contained in paragraph 144
12 of the TAC.

13
14 145. ZAAZOOM Defendants lack knowledge or information on which to admit
15 or deny the allegations contained in paragraph 145 of the TAC and on such basis deny
16 the same.

17
18 146. ZAAZOOM Defendants lack knowledge or information on which to admit
19 or deny the allegations contained in paragraph 146 of the TAC and on such basis deny
20 the same.

21
22 147. ZAAZOOM Defendants lack knowledge or information on which to admit
23 or deny the allegations contained in paragraph 147 of the TAC and on such basis deny
24 the same.

25
26 148. ZAAZOOM Defendants lack knowledge or information on which to admit
27 or deny the allegations contained in paragraph 148 of the TAC and on such basis deny
28 the same.

1 149. ZAAZOOM Defendants deny the allegations contained in paragraph 149
2 of the TAC.

3
4 150. ZAAZOOM Defendants lack knowledge or information on which to admit
5 or deny the allegations contained in paragraph 150 of the TAC and on such basis deny
6 the same.

7
8 151. ZAAZOOM Defendants deny the allegations contained in paragraph 151
9 of the TAC.

10
11 152. ZAAZOOM Defendants deny the allegations contained in paragraph 152
12 of the TAC.

13
14 153. With respect to the allegations contained in paragraph 153 of the TAC,
15 ZAAZOOM Defendants admit that the BBB made public reports similar to those
16 alleged in paragraph 153, but deny that such BBB reports were true or accurate, or made
17 during any time period relevant to the TAC. ZAAZOOM Defendants deny each and
18 every remaining allegation contained in paragraph 153 of the TAC.

19
20 154. ZAAZOOM Defendants admit that they have never maintained a
21 depository account at FNBOD. ZAAZOOM Defendants deny the remaining allegations
22 contained in paragraph 154 of the TAC.

23
24 155. ZAAZOOM Defendants lack knowledge or information on which to admit
25 or deny the allegations contained in paragraph 155 of the TAC and on such basis deny
26 the same.

1 156. ZAAZOOM Defendants lack knowledge or information on which to admit
2 or deny the allegations contained in paragraph 156 of the TAC and on such basis deny
3 the same.

4
5 157. ZAAZOOM Defendants deny the conclusions and allegations contained in
6 paragraph 157 of the TAC.

7
8 158. ZAAZOOM Defendants lack knowledge or information on which to admit
9 or deny the allegations contained in paragraph 158 of the TAC and on such basis deny
10 the same.

11
12 159. ZAAZOOM Defendants lack knowledge or information on which to admit
13 or deny the allegations contained in paragraph 159 of the TAC and on such basis deny
14 the same.

15
16 160. ZAAZOOM Defendants lack knowledge or information on which to admit
17 or deny the allegations contained in paragraph 160 of the TAC and on such basis deny
18 the same.

19
20 161. ZAAZOOM Defendants deny the conclusions and allegations contained in
21 paragraph 161 of the TAC.

22
23 162. ZAAZOOM Defendants lack knowledge or information on which to admit
24 or deny the allegations contained in paragraph 162 of the TAC and on such basis deny
25 the same.

26
27 163. ZAAZOOM Defendants deny that any "facial defects" are described in the
28 TAC and further deny the allegations of paragraph 163 of the TAC.

1 164. ZAAZOOM Defendants lack knowledge or information on which to admit
2 or deny the allegations contained in paragraph 164 of the TAC and on such basis deny
3 the same.

4
5 165. ZAAZOOM Defendants lack knowledge or information on which to admit
6 or deny the allegations contained in paragraph 165 of the TAC and on such basis deny
7 the same. Defendants deny that any paying bank would return a remotely created check
8 as "not payable" as alleged in the TAC.

9
10 166. ZAAZOOM Defendants deny the allegations contained in paragraph 166
11 of the TAC.

12
13 167. ZAAZOOM Defendants deny the allegations contained in paragraph 167
14 of the TAC.

15
16 168. ZAAZOOM Defendants lack knowledge or information on which to admit
17 or deny the allegations contained in paragraph 168 of the TAC and on such basis deny
18 the same.

19
20 169. ZAAZOOM Defendants lack knowledge or information on which to admit
21 or deny the allegations contained in paragraph 168 of the TAC and on such basis deny
22 the same.

23
24 170. ZAAZOOM Defendants lack knowledge or information on which to admit
25 or deny the allegations contained in paragraph 169 of the TAC and on such basis deny
26 the same.

1 171. ZAAZOOM Defendants lack knowledge or information on which to admit
2 or deny the allegations contained in paragraph 170 of the TAC and on such basis deny
3 the same.

4
5 172. ZAAZOOM Defendants lack knowledge or information on which to admit
6 or deny the allegations contained in paragraph 172 of the TAC and on such basis deny
7 the same.

8
9 173. ZAAZOOM Defendants lack knowledge or information on which to admit
10 or deny the allegations contained in paragraph 173 of the TAC and on such basis deny
11 the same.

12
13 174. ZAAZOOM Defendants deny the allegations contained in paragraph 174
14 of the TAC.

15
16 175. ZAAZOOM Defendants deny any misconduct as alleged by the Plaintiff
17 in paragraph 175 of the TAC and/or resulting damages.

18
19 176. ZAAZOOM Defendants deny any misconduct as alleged by the Plaintiff
20 in paragraph 176 of the TAC and/or resulting damages.

21
22 **The Involvement of FNBOCT with the Zaazoom Defendants**

23
24 177. ZAAZOOM Defendants lack knowledge or information on which to admit
25 or deny the allegations contained in paragraph 177 of the TAC and on such basis deny
26 the same.

1 178. ZAAZOOM Defendants lack knowledge or information on which to admit
2 or deny the allegations contained in paragraph 178 of the TAC and on such basis deny
3 the same.
4

5 179. ZAAZOOM Defendants lack knowledge or information on which to admit
6 or deny the allegations contained in paragraph 179 of the TAC and on such basis deny
7 the same.
8

9 180. ZAAZOOM Defendants lack knowledge or information on which to admit
10 or deny the allegations contained in paragraph 180 of the TAC and on such basis deny
11 the same.
12

13 181. ZAAZOOM Defendants lack knowledge or information on which to admit
14 or deny the allegations contained in paragraph 181 of the TAC and on such basis deny
15 the same.
16

17 182. ZAAZOOM Defendants lack knowledge or information on which to admit
18 or deny the allegations contained in paragraph 182 of the TAC and on such basis deny
19 the same.
20

21 183. ZAAZOOM Defendants lack knowledge or information on which to admit
22 or deny the allegations contained in paragraph 183 of the TAC and on such basis deny
23 the same.
24

25 184. ZAAZOOM Defendants lack knowledge or information on which to admit
26 or deny the allegations contained in paragraph 184 of the TAC and on such basis deny
27 the same.
28

1 185. ZAAZOOM Defendants deny the allegations contained in paragraph 185
2 of the TAC.

3
4 186. ZAAZOOM Defendants deny the allegations contained in paragraph 186
5 of the TAC.

6
7 187. With respect to the allegations contained in paragraph 187 of the TAC,
8 ZAAZOOM Defendants admit that the BBB made public reports similar to those
9 alleged in paragraph 187, but deny that such BBB reports were true or accurate, or made
10 during any time period relevant to the TAC. ZAAZOOM Defendants deny each and
11 every remaining allegation contained in paragraph 187 of the TAC.

12
13 188. ZAAZOOM Defendants admit that they have never maintained a
14 depository account with FNBOCT. ZAAZOOM Defendants lack knowledge or
15 information on which to admit or deny the remaining allegations contained in paragraph
16 188 of the TAC and on such basis deny the same.

17
18 189. ZAAZOOM Defendants lack knowledge or information on which to admit
19 or deny the allegations contained in paragraph 189 of the TAC and on such basis deny
20 the same.

21
22 190. ZAAZOOM Defendants lack knowledge or information on which to admit
23 or deny the allegations contained in paragraph 190 of the TAC and on such basis deny
24 the same.

25
26 191. ZAAZOOM Defendants deny the conclusions alleged in paragraph 191 of
27 the TAC.

1 192. ZAAZOOM Defendants lack knowledge or information on which to admit
2 or deny the allegations contained in paragraph 192 of the TAC and on such basis deny
3 the same.

4
5 193. ZAAZOOM Defendants lack knowledge or information on which to admit
6 or deny the allegations contained in paragraph 193 of the TAC and on such basis deny
7 the same.

8
9 194. ZAAZOOM Defendants deny the conclusions alleged in paragraph 194 of
10 the TAC.

11
12 195. ZAAZOOM Defendants lack knowledge or information on which to admit
13 or deny the allegations contained in paragraph 195 of the TAC and on such basis deny
14 the same.

15
16 196. ZAAZOOM Defendants lack knowledge or information on which to admit
17 or deny the allegations contained in paragraph 196 of the TAC and on such basis deny
18 the same.

19
20 197. ZAAZOOM Defendants lack knowledge or information on which to admit
21 or deny the allegations contained in paragraph 197 of the TAC and on such basis deny
22 the same.

23
24 198. ZAAZOOM Defendants lack knowledge or information on which to admit
25 or deny the allegations contained in paragraph 198 of the TAC and on such basis deny
26 the same.

199. ZAAZOOM Defendants lack knowledge or information on which to admit or deny the allegations contained in paragraph 199 of the TAC and on such basis deny the same.

200. ZAAZOOM Defendants lack knowledge or information on which to admit or deny the allegations contained in paragraph 200 of the TAC and on such basis deny the same.

201. ZAAZOOM Defendants lack knowledge or information on which to admit or deny the allegations contained in paragraph 201 of the TAC and on such basis deny the same. ZAAZOOM Defendants further deny any misconduct as alleged by the Plaintiff in paragraph 201 of the TAC and/or resulting damages.

202. ZAAZOOM Defendants lack knowledge or information on which to admit or deny the allegations contained in paragraph 202 of the TAC and on such basis deny the same. ZAAZOOM Defendants further deny any misconduct as alleged by the Plaintiff in paragraph 202 of the TAC and/or resulting damages.

203. ZAAZOOM Defendants deny any misconduct as alleged by the Plaintiff in paragraph 203 of the TAC and/or resulting damages.

Plaintiff Marsh

204. ZAAZOOM Defendants deny each and every allegation contained in paragraph 204 of the TAC. ZAAZOOM Defendants state affirmatively that Plaintiff Marsh knowingly and intentionally accepted an online offer for Liberty Discount Club and input her banking information on the ROSCA compliant offer form as part of the order process.

1
2 205. ZAAZOOM Defendants admit the allegations contained in paragraph 205
3 of the TAC.
4

5 206. ZAAZOOM Defendants deny each and every allegation contained in
6 paragraph 206 of the TAC. ZAAZOOM Defendants state affirmatively that Plaintiff
7 Marsh knowingly and intentionally accepted an online offer for Liberty Discount Club
8 and input her banking information on the ROSCA compliant offer form as part of the
9 order process.
10

11 207. ZAAZOOM Defendants lack knowledge or information on which to admit
12 or deny the allegations contained in paragraph 207 of the TAC and on such basis deny
13 the same. ZAAZOOM Defendants state affirmatively that Plaintiff Marsh did accept an
14 offer posted on a payday loan website for online coupon services and provided her
15 banking information directly to ZAAZOOM Defendants on the ROSCA compliant offer
16 form as part of the order process.
17

18 208. ZAAZOOM Defendants deny each and every allegation contained in
19 paragraph 206 of the TAC. ZAAZOOM Defendants state affirmatively that Plaintiff
20 Marsh knowingly and intentionally accepted an online offer for Liberty Discount Club
21 and input her banking information on the ROSCA compliant offer form as part of the
22 order process.
23

24 209. ZAAZOOM Defendants deny each and every allegation contained in
25 paragraph 209 of the TAC.
26
27
28

1 210. ZAAZOOM Defendants admit transferring the personal and banking
2 information supplied by Plaintiff Marsh to its payment processor after having confirmed
3 the order by email to Plaintiff Marsh.
4

5 211. ZAAZOOM Defendant admits that DPS was authorized to process a
6 remotely created check for payment of online coupon services ordered by Plaintiff
7 Marsh on or about the date alleged. ZAAZOOM Defendants deny any misconduct as
8 alleged by the Plaintiff and/or resulting damages.
9

10 212. ZAAZOOM Defendants lack knowledge or information on which to admit
11 or deny the allegations contained in paragraph 212 of the TAC and on such basis deny
12 the same. ZAAZOOM Defendants state affirmatively that they were authorized by
13 Plaintiff Marsh to deduct \$49.98 from the bank account she provided in connection with
14 her order from Liberty Discount Club and that DPS was authorized to bill and collect
15 the amount owed.
16

17 213. ZAAZOOM Defendants admit the allegations contained in paragraph 213
18 of the TAC.
19

20 214. ZAAZOOM Defendants admit the allegations contained in paragraph 214
21 of the TAC.
22

23 215. ZAAZOOM Defendants lack knowledge or information on which to admit
24 or deny the allegations contained in paragraph 215 of the TAC and on such basis deny
25 the same. ZAAZOOM Defendants state affirmatively that they were authorized by
26 Plaintiff Marsh to deduct \$49.98 from the bank account she provided in connection with
27 her order from Liberty Discount Club and that DPS was authorized to bill and collect
28 the amount owed.

1 222. ZAAZOOM Defendants deny each and every allegation contained in
2 paragraph 222 of the TAC. Defendants state affirmatively that Plaintiff Evans checked
3 boxes on ZAAZOOM Defendants two different offer forms expressly accepting such
4 offers and each order was confirmed by two email confirmations prior to billing.

5
6 223. ZAAZOOM Defendants deny each and every allegation contained in
7 paragraph 223 of the TAC.

8
9 224. ZAAZOOM Defendants deny each and every allegation contained in
10 paragraph 224 of the TAC.

11
12 225. ZAAZOOM Defendants deny each and every allegation contained in
13 paragraph 225 of the TAC.

14
15 226. ZAAZOOM Defendants admit that the banking information authorized by
16 Plaintiff Evans for use as payment for her online coupon service orders was transferred
17 to AEC for processing three days after the order in compliance with the confirming
18 emails transmitted by ZAAZOOM Defendants.

19
20 227. ZAAZOOM Defendants admit that a remotely created check was
21 processed by AEC on or after October 25, 2010 in the amount of \$49.98, and that the
22 bank account provided by Plaintiff Evans in connection with her order was used for this
23 purpose. ZAAZOOM Defendants deny each and every other allegation contained in
24 paragraph 227 of the TAC.

25
26 228. ZAAZOOM Defendants admit that one October 22, 2010, Plaintiff Evans
27 made a second order using a different bank account and that \$22.99 was billed by
28 ZAAZOOM Defendants to the second bank account as authorized by Plaintiff Evans.

1 ZAAZOOM Defendants deny each and every other allegation contained in paragraph
2 228 of the TAC.

3
4 229. ZAAZOOM Defendants admit that a remotely created check was
5 processed by AEC on or after November 1, 2010 in payment of a UclipUsave.com
6 subscription in the amount of \$12.99, and that the bank account provided by Plaintiff
7 Evans in connection with her order was used for this purpose. ZAAZOOM Defendants
8 deny each and every other allegation contained in paragraph 229 of the TAC.

9
10 230. ZAAZOOM Defendants admit processing a recurring monthly
11 subscription fee in the amount of \$12.99 on December 3, 2010. ZAAZOOM
12 Defendants deny any misconduct as alleged by the Plaintiff in paragraph 230 of the
13 TAC and/or resulting damages.

14
15 231. ZAAZOOM Defendants lack knowledge or information on which to admit
16 or deny the allegations contained in paragraph 231 of the TAC and on such basis deny
17 the same.

18
19 232. ZAAZOOM Defendants lack knowledge or information on which to admit
20 or deny the allegations contained in paragraph 232 of the TAC and on such basis deny
21 the same.

22
23 233. ZAAZOOM Defendants admit that they have never maintained a
24 depository account at either SunFirst Bank or FNBOD.

25
26 234. ZAAZOOM Defendants admit the allegations contained in paragraph 234
27 of the TAC. ZAAZOOM Defendants deny any misconduct as alleged by the Plaintiff
28 and/or resulting damages.

1 235. ZAAZOOM Defendants deny each and every allegation contained in
2 paragraph 235 of the TAC.

3
4 236. ZAAZOOM Defendants admit that the Evans Checks were drafted,
5 deposited, accepted for deposit, and settled. ZAAZOOM Defendants deny the
6 remaining allegations contained in paragraph 236 of the TAC.

7
8 237. ZAAZOOM Defendants deny each and every allegation contained in
9 paragraph 237 of the TAC.

10
11 **CLASS ACTION ALLEGATIONS**

12
13 238. With respect to the allegations contained in paragraph 238 of the TAC, the
14 ZAAZOOM Defendants have failed to state any claim on behalf of themselves on which
15 relief may be granted, and lack standing to assert any claims on behalf of any other
16 persons. ZAAZOOM Defendants state affirmatively that the online coupon or discount
17 services described in the complaint were non-existent until December 2009, and that
18 after December 29, 2010, neither Plaintiffs nor any persons claimed to be represented by
19 Plaintiffs have standing to assert any claim or cause of action against ZAAZOOM
20 Defendants. Accordingly, the class purported to be represented by Plaintiff is either
21 non-existent, overbroad or both. ZAAZOOM Defendants deny any misconduct as
22 alleged by the Plaintiffs and/or resulting damage.

23
24 239. With respect to the allegations contained in paragraph 239 of the TAC, the
25 ZAAZOOM Defendants have failed to state any claim on behalf of themselves on which
26 relief may be granted, and lack standing to assert any claims on behalf of any other
27 persons. ZAAZOOM Defendants state affirmatively that the online coupon or discount
28 services described in the complaint were non-existent until December 2009, and that

1 after December 29, 2010, neither Plaintiffs nor any persons claimed to be represented by
2 Plaintiffs have standing to assert any claim or cause of action against ZAAZOOM
3 Defendants. Accordingly, the subclass purported to be represented by Plaintiff is either
4 non-existent, overbroad or both. ZAAZOOM Defendants deny any misconduct as
5 alleged by the Plaintiffs and/or resulting damage.
6

7 240. ZAAZOOM Defendants deny the allegations contained in paragraph 240
8 of the TAC.
9

10 241. ZAAZOOM Defendants deny the allegations contained in paragraph 241
11 of the TAC.
12

13 242. ZAAZOOM Defendants deny the allegations contained in paragraph 242
14 of the TAC. ZAAZOOM Defendants state affirmatively that all online coupon and
15 discount services offered by the ZAAZOOM Defendants after December 29, 2010 were
16 in full compliance with 15 U.S.C. §8402 and neither Plaintiff Marsh nor any person
17 purported to be represented by Plaintiffs whose claim arose on or after December 29,
18 2010 has a valid claim or standing to assert any claim against the ZAAZOOM
19 Defendants.
20

21 243. ZAAZOOM Defendants deny each and every allegation contained in
22 paragraph 243 of the TAC.
23

24 244. ZAAZOOM Defendants deny each and every allegation contained in
25 paragraph 244 of the TAC.
26
27
28

FIRST CLAIM FOR RELIEF

(Violation of Unlawful Prong of California Business and Professions Code §17200 -- brought by Marsh and Evans individually and on behalf of the California Subclass against ZAAZOOM Defendants)

245. ZAAZOOM Defendants incorporate herein by reference the admissions, denials and affirmative statements and defenses contained in paragraph 1-244 above.

246. ZAAZOOM Defendants deny each and every allegation contained in paragraph 246 of the TAC.

247. ZAAZOOM Defendants deny each and every allegation contained in paragraph 247 of the TAC.

248. ZAAZOOM Defendants deny each and every allegation contained in paragraph 248 of the TAC.

249. ZAAZOOM Defendants deny each and every allegation contained in paragraph 249 of the TAC.

250. ZAAZOOM Defendants deny each and every allegation contained in paragraph 250 of the TAC.

251. ZAAZOOM Defendants deny each and every allegation contained in paragraph 251 of the TAC.

252. ZAAZOOM Defendants deny each and every allegation contained in paragraph 252 of the TAC.

1 253. ZAAZOOM Defendants deny each and every allegation contained in
2 paragraph 253 of the TAC.

3
4 254. ZAAZOOM Defendants deny each and every allegation contained in
5 paragraph 254 of the TAC. Defendants affirmatively state that Plaintiff Marsh has
6 denied personal knowledge of any of the facts contained in paragraph 254 of the TAC.

7
8 255. ZAAZOOM Defendants deny each and every allegation contained in
9 paragraph 255 of the TAC.

10
11 256. ZAAZOOM Defendants deny each and every allegation contained in
12 paragraph 256 of the TAC.

13
14 257. ZAAZOOM Defendants deny each and every allegation contained in
15 paragraph 257 of the TAC.

16
17 **SECOND CLAIM FOR RELIEF**

18 (Violation of Unlawful Prong of California Business and Professions
19 Code §17200 -- brought by Marsh and Evans individually and on behalf of
20 the California Subclass against DPS, Jack Henry, and AEC)

21
22 258. ZAAZOOM Defendants incorporate herein by reference the admissions,
23 denials and affirmative statements and defenses contained in paragraph 1-257 above.

24
25 259. ZAAZOOM Defendants deny each and every allegation contained in
26 paragraph 259 of the TAC.

1 260. ZAAZOOM Defendants deny each and every allegation contained in
2 paragraph 260 of the TAC.

3
4 261. ZAAZOOM Defendants deny each and every allegation contained in
5 paragraph 261 of the TAC.

6
7 262. ZAAZOOM Defendants deny each and every allegation contained in
8 paragraph 262 of the TAC.

9
10 263. ZAAZOOM Defendants deny each and every allegation contained in
11 paragraph 263 of the TAC.

12
13 264. ZAAZOOM Defendants deny each and every allegation contained in
14 paragraph 264 of the TAC.

15
16 265. ZAAZOOM Defendants deny each and every allegation contained in
17 paragraph 265 of the TAC.

18
19 266. ZAAZOOM Defendants deny each and every allegation contained in
20 paragraph 266 of the TAC.

21
22 267. ZAAZOOM Defendants deny each and every allegation contained in
23 paragraph 267 of the TAC.

24
25 268. ZAAZOOM Defendants deny each and every allegation contained in
26 paragraph 268 of the TAC.

1 269. ZAAZOOM Defendants deny each and every allegation contained in
2 paragraph 269 of the TAC. Defendants further deny any misconduct as alleged by the
3 Plaintiffs and/or resulting damages.

4
5 **THIRD CLAIM FOR RELIEF**

6 (Violation of the Fraudulent Prong of California Business and Professions
7 Code §17200 -- brought by Marsh and Evans individually and on behalf of
8 the California Subclass against the Zaazoom Defendants)

9
10 270. ZAAZOOM Defendants incorporate herein by reference the admissions,
11 denials and affirmative statements and defenses contained in paragraph 1-269 above.

12
13 271. ZAAZOOM Defendants deny each and every allegation contained in
14 paragraph 271 of the TAC.

15
16 272. ZAAZOOM Defendants deny each and every allegation contained in
17 paragraph 272 of the TAC.

18
19 273. ZAAZOOM Defendants deny each and every allegation contained in
20 paragraph 273 of the TAC.

21
22 274. ZAAZOOM Defendants deny each and every allegation contained in
23 paragraph 274 of the TAC.

24
25 275. ZAAZOOM Defendants deny each and every allegation contained in
26 paragraph 275 of the TAC.

1 276. ZAAZOOM Defendants deny each and every allegation contained in
2 paragraph 276 of the TAC, which allegations are contained verbatim in paragraph 275
3 of the TAC.

4
5 277. ZAAZOOM Defendants deny each and every allegation contained in
6 paragraph 277 of the TAC.

7
8 278. ZAAZOOM Defendants deny each and every allegation contained in
9 paragraph 278 of the TAC.

10
11 279. ZAAZOOM Defendants deny each and every allegation contained in
12 paragraph 279 of the TAC.

13
14 280. With respect to the allegations contained in paragraph 280 of the TAC, the
15 ZAAZOOM Defendants deny any allegation the information contained in their online
16 offer materials failed to disclose the existence and terms of their online coupon offers.
17 ZAAZOOM Defendants state affirmatively that the Plaintiffs have denied having any
18 personal knowledge as to the nature and content of offer materials posted by the
19 ZAAZOOM Defendants and/or accepted by the Plaintiffs.

20
21 281. With respect to the allegations contained in paragraph 281 of the TAC, the
22 ZAAZOOM Defendants deny any allegation the information contained in their online
23 offer materials and double email confirmation failed to disclose that its customers had
24 been enrolled in an online coupon service and would be charged for that service.
25 ZAAZOOM Defendants state affirmatively that the Plaintiffs have denied having any
26 personal knowledge as to the nature and content of offer materials posted by the
27 ZAAZOOM Defendants and/or accepted by the Plaintiffs.

1 282. ZAAZOOM Defendants deny each and every allegation contained in
2 paragraph 282 of the TAC.

3
4 283. ZAAZOOM Defendants deny each and every allegation contained in
5 paragraph 283 of the TAC.

6
7 **FOURTH CLAIM FOR RELIEF**

8 (Violation of the Fraudulent Prong of California Business and Professions
9 Code §17200 -- brought by Marsh and Evans individually and on behalf of
10 the California Subclass against DPS, Jack Henry, and AEC)
11

12 284. ZAAZOOM Defendants incorporate herein by reference the admissions,
13 denials and affirmative statements and defenses contained in paragraph 1-283 above.
14

15 285. ZAAZOOM Defendants admit the allegations contained in paragraph 285
16 of the TAC. ZAAZOOM Defendants deny any misconduct as alleged by the Plaintiffs
17 and/or resulting damages.
18

19 286. ZAAZOOM Defendants admit that DPS and AEC created and deposited
20 remotely created checks evidencing payment for orders by consumers for online coupon
21 services. ZAAZOOM Defendants deny each and every other allegation contained in
22 paragraph 286 of the TAC.
23

24 287. ZAAZOOM Defendants deny each and every allegation contained in
25 paragraph 287 of the TAC.
26

27 288. ZAAZOOM Defendants deny each and every allegation contained in
28 paragraph 288 of the TAC.

1 289. ZAAZOOM Defendants admit that remotely created checks were, in the
2 ordinary course of business, presented to banks according to each consumer's
3 instructions for the purpose of processing payments authorized by each consumer when
4 purchasing online coupon services. ZAAZOOM Defendants deny any misconduct as
5 alleged by Plaintiffs and/or resulting damages.
6

7 290. With respect to the allegation contained in paragraph 290 of the TAC, the
8 remotely created checks processed by DPS and AEC were valid and had been expressly
9 authorized by Plaintiffs and other consumers. ZAAZOOM Defendants deny any
10 misconduct as alleged by the Plaintiffs and/or resulting damages.
11

12 291. ZAAZOOM Defendants deny each and every allegation contained in
13 paragraph 291 of the TAC.
14

15 292. ZAAZOOM Defendants lack knowledge or information on which to admit
16 or deny the allegations contained in paragraph 292 of the TAC and on such basis deny
17 the same.
18

19 293. ZAAZOOM Defendants lack knowledge or information on which to admit
20 or deny the allegations contained in paragraph 293 of the TAC and on such basis deny
21 the same.
22

23 294. With respect to the allegation contained in paragraph 294 of the TAC,
24 ZAAZOOM Defendants admit that the banks were justified in relying on the remotely
25 created checks as such checks were valid and authorized by the consumer. ZAAZOOM
26 Defendants deny any misconduct as alleged by the Plaintiffs and/or resulting damages.
27
28

1 295. ZAAZOOM Defendants deny each and every allegation contained in
2 paragraph 295 of the TAC.

3
4 296. ZAAZOOM Defendants deny each and every allegation contained in
5 paragraph 296 of the TAC.

6
7 297. ZAAZOOM Defendants deny each and every allegation contained in
8 paragraph 297 of the TAC.

9
10 **FIFTH CLAIM FOR RELIEF**

11 (Violation of Unfair Prong of California Business and Professions Code
12 §17200 -- brought by Marsh and Evans individually and on behalf of the
13 California Subclass against the Zaazoom Defendants)

14
15 298. ZAAZOOM Defendants incorporate herein by reference the admissions,
16 denials and affirmative statements and defenses contained in paragraph 1-298 above.

17
18 299. ZAAZOOM Defendants deny each and every allegation contained in
19 paragraph 299 of the TAC.

20
21 300. ZAAZOOM Defendants deny each and every allegation contained in
22 paragraph 300 of the TAC.

23
24 301. ZAAZOOM Defendants deny each and every allegation contained in
25 paragraph 301 of the TAC.

26
27 302. ZAAZOOM Defendants deny each and every allegation contained in
28 paragraph 302 of the TAC.

1 303. ZAAZOOM Defendants deny each and every allegation contained in
2 paragraph 303 of the TAC.

3
4 304. ZAAZOOM Defendants deny each and every allegation contained in
5 paragraph 304 of the TAC.

6
7 **SIXTH CLAIM FOR RELIEF**

8 (Violation of the Unfair Prong of California Business and Professions Code
9 §17200 -- brought by Marsh and Evans individually and on behalf of the
10 California Subclass against DPS, Jack Henry, and AEC)
11

12 305. ZAAZOOM Defendants incorporate herein by reference the admissions,
13 denials and affirmative statements and defenses contained in paragraph 1-305 above.
14

15 306. ZAAZOOM Defendants admit that they engaged DPS and AEC to process
16 remotely created checks for payments made by consumers for online coupon services.
17 ZAAZOOM Defendants deny each and every other allegation contained in paragraph
18 306 of the TAC.
19

20 307. ZAAZOOM Defendants admit that DPS and AEC created and deposited
21 remotely created checks evidencing payment for orders by consumers for online coupon
22 services. ZAAZOOM Defendants deny each and every other allegation contained in
23 paragraph 307 of the TAC.
24

25 308. ZAAZOOM Defendants deny each and every allegation contained in
26 paragraph 308 of the TAC.
27
28

1 309. ZAAZOOM Defendants deny each and every allegation contained in
2 paragraph 309 of the TAC.

3
4 310. ZAAZOOM Defendants deny each and every allegation contained in
5 paragraph 310 of the TAC.

6
7 311. ZAAZOOM Defendants deny each and every allegation contained in
8 paragraph 312 of the TAC.

9
10 **SEVENTH CLAIM FOR RELIEF**

11 (Conversion - brought by Marsh and Evans individually and on behalf of
12 the Class against Zaazoom Defendants, DPS Jack Henry, and AEC)

13
14 312. ZAAZOOM Defendants incorporate herein by reference the admissions,
15 denials and affirmative statements and defenses contained in paragraph 1-312 above.

16
17 313. ZAAZOOM Defendants deny each and every allegation contained in
18 paragraph 313 of the TAC.

19
20 314. ZAAZOOM Defendants deny each and every allegation contained in
21 paragraph 314 of the TAC.

22
23 315. ZAAZOOM Defendants deny each and every allegation contained in
24 paragraph 315 of the TAC.

25
26 316. ZAAZOOM Defendants deny each and every allegation contained in
27 paragraph 316 of the TAC.

1 317. ZAAZOOM Defendants deny each and every allegation contained in
2 paragraph 317 of the TAC.

3
4 318. ZAAZOOM Defendants admit that they received payment from DPS and
5 AEC for online coupon services purchased by consumers. ZAAZOOM Defendants
6 deny any misconduct as alleged by the Plaintiff and/or resulting damages.

7
8 319. ZAAZOOM Defendants deny each and every allegation contained in
9 paragraph 319 of the TAC.

10
11 320. ZAAZOOM Defendants deny each and every allegation contained in
12 paragraph 320 of the TAC.

13
14 321. ZAAZOOM Defendants deny each and every allegation contained in
15 paragraph 321 of the TAC.

16
17 322. ZAAZOOM Defendants deny each and every allegation contained in
18 paragraph 322 of the TAC.

19
20 **EIGHTH CLAIM FOR RELIEF**

21 (Negligence -- brought by brought by Marsh and Evans
22 individually and on behalf of the Class against Zaazoom Defendants)

23
24 323. ZAAZOOM Defendants incorporate herein by reference the admissions,
25 denials and affirmative statements and defenses contained in paragraph 1-322 above.

26
27 324. ZAAZOOM Defendants deny each and every allegation contained in
28 paragraph 324 of the TAC.

1 325. ZAAZOOM Defendants deny each and every allegation contained in
2 paragraph 325 of the TAC.

3
4 326. ZAAZOOM Defendants admit that Plaintiffs and other consumers
5 consented to enrolling in Defendants online coupon services prior to the transmission of
6 any information by Payday Loan Websites to ZAAZOOM Defendants. ZAAZOOM
7 Defendants deny the remaining allegations contained in paragraph 326 of the TAC and
8 further deny any misconduct as alleged by the Plaintiffs and/or resulting damages.
9 ZAAZOOM Defendants state affirmatively that orders received from consumers who
10 enrolled for online coupon services on payday loan websites were confirmed by two
11 separate emails prior to billing, and that after December 29, 2010, no payday loan
12 websites provided personal or banking information to the ZAAZOOM Defendants.

13
14 327. ZAAZOOM Defendants deny each and every allegation contained in
15 paragraph 327 of the TAC.

16
17 328. ZAAZOOM Defendants admit engaging payment processors to bill
18 consumers for purchases of online coupon services. ZAAZOOM Defendants deny every
19 other allegation contained in paragraph 328 of the TAC.

20
21 329. ZAAZOOM Defendants deny each and every allegation contained in
22 paragraph 329 of the TAC.

23
24 330. ZAAZOOM Defendants deny each and every allegation contained in
25 paragraph 330 of the TAC.

26
27 331. ZAAZOOM Defendants deny each and every allegation contained in
28 paragraph 331 of the TAC.

1 332. ZAAZOOM Defendants deny each and every allegation contained in
2 paragraph 332 of the TAC.

3
4 333. ZAAZOOM Defendants deny each and every allegation contained in
5 paragraph 333 of the TAC.

6
7 334. ZAAZOOM Defendants deny each and every allegation contained in
8 paragraph 334 of the TAC.

9
10 **NINTH CLAIM FOR RELIEF**

11 (Negligence -- brought by brought by Marsh and Evans individually and
12 on behalf of the Class against DPS, Jack Henry, and AEC)

13
14 336. ZAAZOOM Defendants incorporate herein by reference the admissions,
15 denials and affirmative statements and defenses contained in paragraph 1-335 above.

16
17 337. ZAAZOOM Defendants deny each and every allegation contained in
18 paragraph 337 of the TAC.

19
20 338. ZAAZOOM Defendants deny each and every allegation contained in
21 paragraph 338 of the TAC.

22
23 339. ZAAZOOM Defendants admit that they engaged DPS and AEC to process
24 remotely created checks as payment for online coupon services ordered by consumers.
25 ZAAZOOM Defendants deny each and every other allegation contained in paragraph
26 339 of the TAC.

1 340. ZAAZOOM Defendants deny each and every allegation contained in
2 paragraph 340 of the TAC.

3
4 341. ZAAZOOM Defendants deny each and every allegation contained in
5 paragraph 341 of the TAC.

6
7 342. ZAAZOOM Defendants deny each and every allegation contained in
8 paragraph 342 of the TAC.

9
10 343. ZAAZOOM Defendants deny each and every allegation contained in
11 paragraph 343 of the TAC.

12
13 344. ZAAZOOM Defendants deny each and every allegation contained in
14 paragraph 344 of the TAC.

15
16 **TENTH CLAIM FOR RELIEF**

17 (Negligence -- brought by Marsh and Evans individually and on behalf of
18 the Class against FBOD and FNBOCT)

19
20 345. ZAAZOOM Defendants incorporate herein by reference the admissions,
21 denials and affirmative statements and defenses contained in paragraph 1-344 above.

22
23 The allegations contained in paragraphs 346, 347, 348, 349, 350, 351, 352, 353,
24 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, or 369 of the
25 TAC are not stated against these ZAAZOOM Defendants. To the extent any such
26 allegations are intended to state a claim against these ZAAZOOM Defendants, or are
27 pled in support of any other claim for relief contained in the TAC against these
28 ZAAZOOM Defendants, such allegations are denied.

1 ZAAZOOM Defendants deny any misconduct as alleged by the Plaintiffs and/or
2 resulting damage.

3
4 **ELEVENTH CLAIM FOR RELIEF**

5 (Statutory Negligence under the Commercial Code section 3404 - brought
6 by Marsh and Evans individually and on behalf of the Class against FBOD
7 and FNBOCT)

8
9 The Eleventh Claim for Relief has been dismissed for failure to state a claim and,
10 accordingly, no answer to the allegations contained in the Eleventh Claim for Relief is
11 required.

12
13 **AFFIRMATIVE DEFENSES**

14
15 **FIRST AFFIRMATIVE DEFENSE**

16 346. As a First Separate Affirmative Defense to each and every claim asserted
17 in the TAC, ZAAZOOM Defendants allege that each claim fails to state a claim for
18 which relief may be granted.

19
20 **SECOND AFFIRMATIVE DEFENSE**

21
22 347. As a Second Affirmative Defense to each and every claim asserted in the
23 TAC, ZAAZOOM Defendants allege that each claim fails to state a claim for individual
24 relief as to Plaintiff Marsh.

1 **THIRD AFFIRMATIVE DEFENSE**

2

3 348. As a Third Affirmative Defense to each and every claim asserted in the

4 TAC, ZAAZOOM Defendants allege that each claim fails to state a claim for individual

5 relief as to Plaintiff Evans.

6

7 **FOURTH AFFIRMATIVE DEFENSE**

8

9 349. As a Fourth Affirmative Defense to each and every claim asserted in the

10 TAC, ZAAZOOM Defendants allege that each claim fails to state a claim for relief as to

11 Plaintiff Marsh as a class representative.

12

13 **FIFTH AFFIRMATIVE DEFENSE**

14

15 350. As a Fifth Affirmative Defense to each and every claim asserted in the

16 TAC, ZAAZOOM Defendants allege that each claim fails to state a claim for relief as to

17 Plaintiff Evans as a class representative.

18

19 **SIXTH AFFIRMATIVE DEFENSE**

20

21 351. As a Sixth Affirmative Defense to each and every claim asserted in the

22 TAC, ZAAZOOM Defendants allege that each claim fails to state a claim for relief

23 cognizable as class claims because questions of fact and law common to the class do not

24 predominate over questions affecting individual class members.

25

26

27

28

WHEREFORE, ZAAZOOM Defendants pray for judgment as follows:

1. That Plaintiffs, including all members of the purported class, take nothing by the TAC;
2. That the Court offset any recovery by Plaintiffs by any amounts paid and/or benefits provided by ZAAZOOM Defendants, insurance carriers or other parties to them in connection with claims or events related to the subject matter of this Action;
3. That ZAAZOOM Defendants have judgment against Plaintiffs and each of them;
4. That ZAAZOOM Defendants recover all of its expenses, costs and attorneys' fees in connection with this Action;
5. That the Court grant ZAAZOOM Defendants such other and further relief as it deems just and proper.

Dated: January 10, 2013

DENNIS A. WINSTON,
A PROFESSIONAL LAW CORPORATION

By /s/ Dennis A. Winston
Dennis A. Winston Attorneys for
Defendants ZaaZoom Solutions, LLC; ZaZa Pay,
LLC; Automated Electronic Checking, Inc.,
MultiECom, LLC and Online Resource Center, LLC

DEMAND FOR JURY TRIAL

ZAAZOOM Defendants hereby demand a trial by jury.

Dated: January 10, 2013

DENNIS A. WINSTON,
A PROFESSIONAL LAW CORPORATION

By /s/ Dennis A. Winston
Dennis A. Winston Attorneys for
Defendants ZaaZoom Solutions, LLC; ZaZa
Pay, LLC; Automated Electronic Checking,
Inc., MultiECom, LLC and Online Resource
Center, LLC